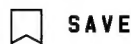


We Pledge Allegiance to the Penguin

We pledge allegiance to the penguin, and the intellectual property regime for which he stands. One nation, under Linux, with free music and open source software for all. Welcome to Brazil!



LATE ONE TROPICAL evening last year, a small delegation of American online-rights activists and scholars – including Stanford's Lawrence Lessig, Harvard's William Fisher, and John Perry Barlow of the Electronic Frontier Foundation – sat in the living room of a beachfront Rio de Janeiro penthouse, preaching the virtues of Internet-powered cultural sharing to Brazil's newly appointed minister of culture. The minister himself, Gilberto Gil, sat on the floor, cross-legged and barefoot, cradling an acoustic guitar in his lap. In addition to being one of Brazil's most high-profile politicians, Gil is also one of its biggest pop stars, with almost four decades of classic back catalog to his name. It was unclear, therefore, just how Gil would respond to the Americans' pitch: an online music archive that might one day contain every Brazilian song ever recorded, all downloadable for free. When they finished laying out the ambitious plan, there was silence. Gil strummed a contemplative chord or two, and then, as Lessig and Fisher eyed each other in polite bafflement, the minister launched into a five-minute, unplugged performance of the bossa nova standard "Formosa." Free of charge.

As it turned out, Gil was happy to give the project his backing. A few months later, he agreed to lend the government's imprimatur to a new digital-sampling license designed by Creative Commons, the US nonprofit founded by Lessig to explore alternatives to the increasingly restrictive terms of copyright. What's more, Gil had

also agreed to put his intellectual property where his mouth was. He was going to rerelease a handful of his own classic hits under the new license, free for anyone to slice, dice, and spice up their creations with, a few seconds at a time.

None of which should really come as a surprise. For one thing, Gil is no more typical a pop star than he is a politician. Sixty-two years old, he wears shoulder-length dreadlocks and is apt to show up at his ministerial offices dressed in the simple white linens that identify him as a follower of the Afro-Brazilian religion *candomblé*. Slouching in and out of the elegant Barcelona chairs that furnish his office, taking the occasional sip from a cup of pinkish herbal tea, he looks - and talks - less like an elder statesman than like the posthippie, multiculturalist, Taoist intellectual he is. And when he turns to the First World's increasingly powerful intellectual-property establishment, he sounds more like a Slashdot hothead than like the well-compensated content baron he also is.

For Gil, "the fundamentalists of absolute property control" - corporations and governments alike - stand in the way of the digital world's promises of cultural democracy and even economic growth. They promise instead a society where every piece of information can be locked up tight, every use of information (fair or not) must be authorized, and every consumer of information is a pay-per-use tenant farmer, begging the master's leave to so much as access his own hard drive. But Gil has no doubt that the fundamentalists will fail. "A world opened up by communications cannot remain closed up in a feudal vision of property," he says. "No country, not the US, not Europe, can stand in the way of it. It's a global trend. It's part of the very process of civilization. It's the semantic abundance of the modern world, of the postmodern world - and there's no use resisting it."

Gil laughs, as he often does when even he finds himself a little over the top. But these days it's not exactly unusual to hear this sort of thing from high-level members of the Brazilian government. The preservation and expansion of the information commons has long been a cause of hackers, academics, and the odd technoliterate librarian, but in the world's fifth-largest country it is fast becoming national doctrine. And the implications hardly end with free samba: Brazil, in its approach to drug patents, in its support for the free software movement, and in its resistance to Big Content's attempts to shape global information policy, is transforming itself into an open source nation - a proving ground for the proposition that the future of ideas doesn't have to be the program of tightly controlled digital rights now headed our way via Redmond, Hollywood, and Washington, DC.

No surprise there either, actually. In a world divided into the content-rich and the content-poor, it's increasingly clear to those on the losing side of the divide that the

traditional means of addressing the imbalance – piracy – is a stopgap solution at best. Sooner or later some country was bound to square off with the IP empire and be the first to insist, as a matter of state policy and national identity, on an alternative. The only question is, why Brazil? In 1996, in response to Brazil's alarming rate of AIDS infection, the government of then-president Fernando Henrique Cardoso guaranteed distribution of the new retroviral drug cocktails to all HIV carriers in the country. Five years later, with the AIDS rate dropping, it was clear that the plan was wise but – at the prices being charged for the patented drugs in the cocktail, utterly unsustainable. Brazil's economy is the world's 10th largest, but it is also the world's most unequal, with 10 percent of the population in control of almost half the wealth and more than 20 percent living in desperate poverty. Those are the sorts of figures that strain a government's budget even when it's not trying to stop the spread of AIDS.

Such was the arithmetic that led José Serra – economist, politician, and the man who set Brazil on its path toward IP independence – to take an interest in the topic. "I always found intellectual property boring," says Serra, appointed health minister under Cardoso in 1998. "Among economists, intellectual property isn't considered one of the noble questions." But with the drug patents standing between Serra and a functioning AIDS program, the problem took on a particular urgency.

His first approach was to go to the key patent holders, the US pharmaceutical giant Merck and the Swiss firm Roche, and ask for a volume discount. When the companies said no, Serra raised the stakes. Under Brazilian law, he informed them, he had the power in cases of national emergency to license local labs to produce patented drugs, royalty free, and he would use it if necessary. Merck immediately caved, but Roche stood its ground until August 2001, when Serra prepared to make good on his threat by drawing up the required paperwork. It was the first time a poor country had even come close to breaking a drug patent – and Roche, stunned, returned to the bargaining table with a newly cooperative attitude. In return for Serra's agreement to play nice, the drugmaker would reduce the price of its drug in Brazil to less than half what it was (and less than Brazil's cost to go it alone).

This was a powerful lesson in the politics of intellectual property – and Brazil was fertile ground for it. As it happens, the open source community in Brazil has long been one of the most active, with a half-dozen GNU/Linux versions and the world's first open source bank ATM network. That community is also undoubtedly among the most politically mobilized.

"Every license for Office plus Windows in Brazil – a country in which 22 million people are starving – means we have to export 60 sacks of soybeans," says Marcelo

D'Elia Branco, coordinator of the country's Free Software Project and liaison between the open source community and the national government, now headed by president Luiz Inácio Lula da Silva. "For the right to use one copy of Office plus Windows for one year or a year and a half, until the next upgrade, we have to till the earth, plant, harvest, and export to the international markets that much soy. When I explain this to farmers, they go nuts."

This analysis goes a long way toward explaining why the Lula government loves free software. Brazil's national IT policy these days can more or less be reduced to two words: Linux roolz. The prime directive of the federal Institute for Information Technology is to promote the adoption of free software throughout the government and ultimately the nation. Ministries and schools are migrating their offices to open source systems. And within the government's "digital inclusion" programs - aimed at bringing computer access to the 80 percent of Brazilians who have none - GNU/Linux is the rule.

It's one thing for a business to switch from Windows to Linux. It's quite another for a whole country. "We're not just discussing one product as opposed to another here - Ford versus Fiat," says Sérgio Amadeu da Silveira, the institute's director. "We're talking about different models of development."

And it's here that the argument takes a peculiarly Brazilian turn - because a model of development is, of course, more than a formula for increasing GDP. The development path a country chooses tells you not just about its economic sensibility but about the culture it envisions for itself. And Brazil has in its 500 years of existence evolved some curious - and curiously prescient - notions about how culture should work.

In 1556, not long after the Portuguese first set foot in Brazil, the Bishop Pero Fernandes Sardinha was shipwrecked on its shores and set about introducing the gospel of Christ to the native "heathens." The locals, impressed with the glorious civilization the bishop represented and eager to absorb it in its totality, promptly ate him.

Thus was born Brazilian culture. Or so wrote the modernist Brazilian poet Oswald de Andrade, whose interpretation of the incident in a 1928 manifesto exalted the cannibals as symbolic role models for all of his country's cultural practitioners. Four decades later, his argument inspired a pair of hyperarticulate pop stars named Caetano Veloso and Gilberto Gil. Veloso and Gil formed the core of *tropicalismo* - a very '60s attempt to capture the chaotic, swirling feel of Brazil's perennially uneven modernization, its jumble of wealth and poverty, of rural and urban, of local and global. For the tropicalistas, as for Andrade, there was only one way to thrive in the

midst of so much contrast: You couldn't flinch from what was alien to you. You couldn't slavishly imitate it, either. You simply had to swallow it whole.

What this meant, in practice, was a musical approach that turned the quiet, seamless sophistication of early-'60s bossa nova inside out, opening its hungry mouth to any and every sort of influence, including that most un-Brazilian of pop forms, rock. Tropicalismo, as Veloso puts it, "was a bit shocking. We came up with new things that involved electric guitars, violent poetry, bad taste, traditional Brazilian music, Catholic Mass, pop, kitsch, tango, Caribbean things, rock and roll, and also our avant-garde, so-called serious music." They cut and pasted styles with an abandon that, amid today's sample-happy music scene, sounds up-to-the-minute - and largely accounts for the fact that early tropicalista records have in the past 10 years become hipster classics in the US and Europe.

More than a sound, though, tropicalismo was an attitude. It was, in Gil's words, "no longer a mere submission to the forces of economic imperialism, but a cannibalistic response of swallowing what they gave us, processing it, and making it something new and different. We saw the cultivating of new habits and manners from the outside as a way of nourishing ourselves, not just intoxicating ourselves."

The military dictatorship that ran Brazil at the time saw it differently, however. "It was anarchism, it was subversion in sheep's clothing," says Gil, explaining why he and Veloso were arrested in 1968. "It was a social infection of troubling consequences for young people. Those were the reasons they gave." The musicians remained in prison for two months. On their release the military invited them, firmly, to leave the country, and they spent the next three years exiled in London. No charges were filed, but according to Gil, their captors made it clear enough why they'd been singled out: "You represent a threat, something new, something that can't quite be understood, something that doesn't fit into any of the clear compartments of existing cultural practices, and that won't do. That is dangerous."

The decades since have been kinder to tropicalismo. That Gil now helps govern the same country he was banished from is just one example of how the movement's ideas have become integral to Brazil's self-image. Those ideas are a feature of the country's intellectual landscape, name-checked regularly not just in doctoral dissertations but on television talk shows and Carnival floats.

But what's most striking about those ideas - in fact downright uncanny - is how the globalizing drift of technology and economics is forcing a similar path on the rest of us. In the production of all manner of cultural goods - from music to software to scientific knowledge itself - the logics of networks, digital media, and global interdependence are telling us to loosen up. They're urging us to stretch our notions

of authorship and creativity, to let hybridity and flux seep into the tools with which we craft our cultures and ourselves.

It's no easy stretch - and the ever more rigid attitudes of the intellectual property industries don't make it any easier. But Brazil has had these moves down for a while and can surely teach us a few if we keep our eyes open. At the very least it can teach us the names for them. Gil and his team, for instance, have coined a word to sum up Brazil's approach to intellectual property in the networked age. The idea, Gil says, is to *tropicalize*.

"To make the digital world join in the samba," Gil says, laughing again and settling back into his chair, as if no further explanation of the term was necessary. As indeed none is. Any educated Brazilian, after all, could parse the phrase at a glance:

To tropicalize. Verb form of the noun. Tropicalismo in motion.

As they did four decades ago, the tropicalizers have their adversaries. Most prominent among them, not surprisingly, is Microsoft Brazil. Generously funded lobbying efforts have bought the company - and proprietary software altogether - a degree of sympathy within the governing party itself that is the despair of open source hard-liners. So, for that matter, has the sheer quantity of Microsoft's business dealings in Brazil, which have done more to nurture the country's IT industry than the free software crowd likes to admit. Nor does it hurt closed source software's public image when Microsoft offers free copies of Windows, as it frequently does, to local governments and to digital-literacy programs for the poor.

But when largesse fails to do the job, Microsoft has proved more than willing to turn to the courts. In June, the company filed criminal defamation charges against government IT czar Amadeu. The cause of action? A published interview in which Amadeu said that Microsoft's giveaways were a "drug-dealer practice" - a "Trojan horse, a form of securing critical mass to continue constraining the country." Calling the remarks "absurd and criminal," Microsoft's official complaint placed particular emphasis, without any apparent irony, on Amadeu's assertion that the company's business strategies rely on the sowing of "fear, uncertainty, and doubt." On the advice of lawyers, Amadeu didn't even bother responding to the charges, and in the wake of international online protests mobilized by Brazil's open source community, Microsoft withdrew them. But notice had been served: The world's largest software company isn't about to sit by while Brazil flirts with mortal threats to its business model.

Nor, actually, is the world's largest entertainment conglomerate, Time Warner, as Gil discovered soon after announcing his decision to rerelease his music under the Creative Commons free-sampling license. Legally speaking, the decision wasn't

entirely his to make. Gil retains some rights to his songs, but the rights to the actual recordings belong to Warner. Company executives in Brazil, longtime collaborators with Gil, initially gave the project their informal blessings. Soon after the plan made headlines in the US, however, Gil received a blunt message direct from the company's global headquarters: over Warner's dead corporate body. The recording rights would not be free, not even in the five-second bits and pieces typical of sampling. Period.

Gil, who became adept during the military dictatorship at writing protest lyrics just subtle enough to get by the censors, wasn't interested in a showdown. "This is a fundamentalism we won't be free of anytime soon," he says. "I didn't want to get into a useless confrontation." Instead, he chose to release a song called "Os lodum" that he had recorded for an independent label in 1998. It was no best-seller, but when he debuted it in its newly unleashed state this past June at the 5th International Free Software Forum in Perto Alegre, Brazil, the audience cheered like it was one of his greatest hits. (It's the song he contributed to *The Wired CD*.)

The episode underscores the obstacles facing any significant attempts to tropicalize Brazil's digital future. Consider the prospects, for instance, of a universal online music archive – the idea that Gil's American visitors proposed in his Rio penthouse last year. Backed by the ministry of culture and directed by Ronaldo Lemos da Silva, a law professor and point man for Creative Commons in Brazil, the project has rounded up an impressive starter collection of public-domain titles for digitization, mostly recordings produced by Brazil's music industry in its fertile early days. The hope, though, is that in the long run this initial collection might yield an even more ambitious scheme: an alternative compensation system for online music that could break the stalemate between industry and fans once and for all. One plan is to grant a copyright license to file-sharers, similar to the one that lets radio stations broadcast songs without prior permission. And as with radio, an agency would track downloads and then pay rights-holders their fair share of a universal service fee levied on all Internet subscribers.

It's a tough sell for sure, especially to an industry from which even Brazil's most politically powerful musician couldn't ransom 10 seconds of his own music. But so far no other plan for resolving the online-music wars promises to get closer to that best of all possible outcomes: artists get paid and peer-to-peer thrives. And so far, only Brazil has shown anything like the political will required to make it happen.

At the geographic heart of Brazil stands a haunting monument to both the force and folly of national willpower: Brasilia, the capital city, built from scratch in the early 1960s in the middle of the country's vast, sparsely inhabited central plain. In form and function, the city is a relic of an era when the economic hope of developing

nations was pinned on massive, heroic public works. Every building is a high-modernist sculpture: sleek, slablike, redolent of an obsolete, Jetsonian vision of the future. Today it would be hard for the government of any developing country to put its faith in the redemptive economic effects of hauling that much steel and concrete into the middle of nowhere, considering how rapidly the wealth of the world is shifting into the weightless realms of information. Better to invest scarce capital in the infrastructure of knowledge that leads to these new kinds of wealth: in research, in education. Better still, perhaps, to invest political capital in the possibility of a global information order in which more and more knowledge, rather than less and less, circulates unfettered by intellectual property interests.

In August 2003, Brasilia was the scene of an event that suggests how deeply invested in that possibility Brazil is becoming. It was a weeklong free software teach-in for members of the Brazilian national congress, sponsored by former president and now senator José Sarney, as solidly middle-of-the-road a statesman as Brazil has ever produced. By the end of the week, 161 out of 594 members of congress, from a broad range of parties, had signed up with the free software caucus - making it one of the largest caucuses in the Brazilian government. But it was at the opening convocation that the sense of history hit its peak, when for the first time the chambers of a national legislature hosted as an honored guest the wispy-bearded, sallow-skinned, ur-geek father of free software himself: Richard Stallman.

Stallman, flanked by Sarney and ranking emissaries of the Lula administration addressed the assembled dignitaries - including Gil - in his stocking feet. Later that week he donned a robe and a halo made out of a compact disc and declared himself "Saint IGNUcius of the Church of Emacs" - a gag that usually slays at more hacker-friendly events but no doubt lost something in translation at this one.

If Stallman thought he was going to be the most provocative speaker at the event, he wasn't counting on Gil, whose own speech traced the origins of open source software and digital culture generally to LSD. "What I said," Gil remembers, "was that this whole process that led to the computer, to the personal computer, to Silicon Valley, this extraordinary degree of cognition that arose from the intersection of math and design and the crystallographic structures of quartz was made possible by acid trips." He laughs. "Or not only by acid trips but without the slightest doubt empowered by them.

"And Stallman was like, Wait a minute there, that's not quite the way it went," Gil recalls. "It freaked him a little to think I was associating the free software movement with the movement to legalize drugs."

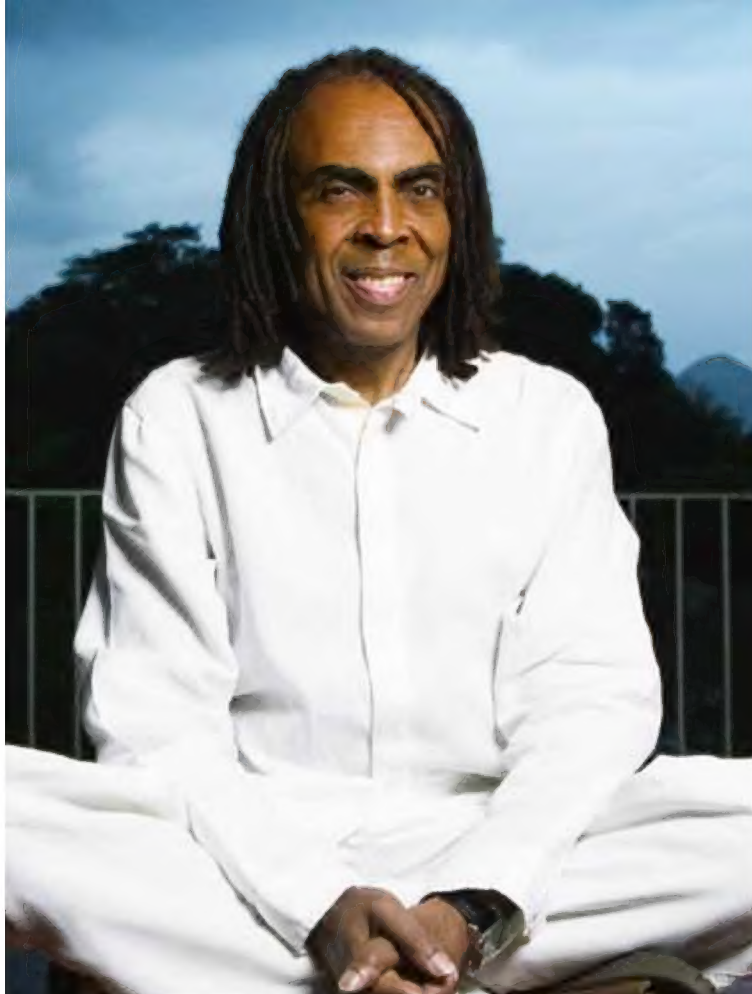
But in fact, that wasn't quite the link Gil was making. He was suggesting that the free software movement and the '60s counterculture had a shared goal of transforming culture from the inside out. Gil talks a little crazy, sure, but he's no fool.

Tropicalization, for all its truck with cannibalism, subversion, and rock guitars, is ultimately for Gil "the margins of Brazilian society getting access to the digital world. The creative impulses of the people getting access to the digital world. The repressed intelligence of the Brazilian poor, of the Brazilian middle class, getting access to this intelligence-empowering tool that is the digital world."

The goal is not a uniquely Brazilian one, as other developing nations are starting to recognize. Already the outlines of an international open source alliance - a coalition of the penguin, if you will - have begun to emerge. India, for instance, is mustering a political commitment to free software that Stallman himself has declared second only to Brazil's. And at the last UN World Summit on the Information Society, Brazil led a bloc including India, South Africa, and China that thwarted an attempt by the US and its allies to harden the UN's line on intellectual property rights, insisting that the final conference document recognize just as strongly the cultural and economic importance of shared knowledge.

A small victory certainly, and maybe only a symbolic one. But the countries that fight against it ignore the message at their peril. Developing nations, poor in IP rights and in the muscle to enforce them, may have a vested interest in the success of the open source paradigm. But so, in the long run, do rich nations. The rate of technological change now is such that modernization proceeds more chaotically than ever, and with every flip of the clock cycle, the whole world's reality looks more and more like Brazil's: a high-contrast, high-contact confusion of microcultures and inequalities. What Gil has learned from that reality is the same thing any country looking for an edge in the coming century might do well to learn: You do yourself no good by trying to control the confusion. You grow, instead, by letting it in. You open the cultural conversation to all comers. You loosen the reins on technical and scientific knowledge and let it wander, from the university to the slum and back. You build your songs out of whatever washes up on shore and then you throw them out to sea again to see what somebody else makes of them. You tropicalize.

Contributing editor Julian Dibbell (julian@juliandibbell.com) is working on a book about virtual economies, a subject he wrote about in issue 11.01.



Gilberto Gil

credit Mark Leibowitz

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